

**REMARKS****I. General**

Claims 1-40 are currently pending, and all are rejected by the Office Action mailed July 12, 2005. No claims are amended by this response. Applicant hereby traverses the rejections and requests reconsideration and withdrawal in light of the remarks contained herein.

**II. Applicant's Record Under M.P.E.P. § 713.04 of Interview with the Examiner**

Applicant's attorney appreciates the Examiner's time and consideration in conducting the telephone interview of October 6, 2005. Applicant respectfully submits the following record of the telephone interview of October 6, 2005 under M.P.E.P. § 713.04.

The following persons participated in the interview: Primary Examiner Andy Rao and Applicant's Attorney Thomas Kelton (reg# 54,214).

Claims 1 and 17 were discussed with reference made to US 5,903,996 (hereinafter, *Morley*) and US 6,088,165 (hereinafter, *Janeczko*). While in previous rejections, *Morley* was used by itself, the current rejection combines *Morley* with *Janeczko*. It was agreed that the addition of *Janeczko* to the rejections does not cure the deficiencies discussed in Applicant's response of June 6, 2005. The Examiner agreed to reconsider the rejection in view of the arguments presented herein.

In view of the telephone interview of October 6, 2005, Applicant hereby presents the following arguments for the Examiner's consideration.

**III. Claim Rejections**

Claims 1-40 are rejected under 35 U.S.C. § 103(a) as being anticipated by *Morley* in view of *Janeczko*. Applicant traverses the rejections as follows.

**A. Claims 1-16**

To establish a prima facie case of obviousness under 35 U.S.C. § 103(a), three basic criteria must be met. First, there must be some suggestion or motivation, either in the

reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the applied reference. Second, there must be a reasonable expectation of success. Finally, the applied reference must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143. Without conceding any other criteria, Applicant respectfully asserts that the rejection does not satisfy the third criterion, as discussed further below.

Claim 1 recites, in part, “a detector for sensing the scene in a second spectral band, the detector having an image output representative of the scene,” and “a display for receiving the image output and displaying a displayed image in the first spectral band.” *Janeczko* does not teach or suggest these features, nor does the rejection rely on *Janeczko* to teach or suggest the features. Furthermore, *Morley* does not teach or suggest at least these features of claim 1 because it does not teach or suggest both a detector and a display.

*Morley* teaches a system that combines a visible light image of a scene with an image of the scene produced from an image intensifier tube. See Figures 2a-b and Abstract. The system of Figures 2a-b shows a system that receives light at an objective lens assembly (item 28). The light is directed to a prism (item 66) that creates one light path for some spectral ranges and another light path for other spectral ranges. The second path goes through an image intensifier tube (item 50) to create a visible image of the scene from the second spectral range. The prism (item 78) combines the light from the first light path with the image from the image intensifier tube to create the combined image seen at the eyepiece (item 80).

The cited passage at column 9, lines 45-65 describes the system of Figure 4. Specifically, it describes that the image produced at the image intensifier tube is inverted, thereby requiring a reversion before being overlaid with the light from the first light path. It also describes that the system may help to produce an image in low-light conditions, since it employs an image intensifier tube.

The system of Figure 6 is a laser range finding control circuit. The photodiode (item 92) produces a pulse of laser light (item 22) that is directed upon a scene. The laser light is reflected from the scene and received by the image intensifier tube. The microprocessor

(item 112) measures the time for the light to travel to and from the scene. See Col. 13, lines 22-30. This is used to provide a distance range to the user of the device. See *Id.*

It appears that the rejection equates the image intensifier tube of *Morley* with both the claimed detector and display. The above-described portions of *Morley* do not teach or suggest both “a detector for sensing the scene in a second spectral band, the detector having an image output representative of the scene,” and “a display for receiving the image output and displaying a displayed image in the first spectral band,” as recited by claim 1. Specifically, the image intensifier tube (item 50 of Figures 2b, 3, and 6) cannot be the recited detector because it does not have “an image output representative of the scene,” nor can it be the recited display because it does not receive “the image output” and display “a displayed image in the first spectral band.”

First, the image intensifier tube does not have the claimed image output because it does not produce any output that can be received by another component to display a displayed image. Therefore, the image intensifier tube is not the claimed detector. Second, the image intensifier tube does not “receive the image output” because it receives the image itself, not an image output. Therefore, the image intensifier tube is not the claimed display. Accordingly, the image intensifier tube of *Morley* cannot be either or both of the claimed detector or display.

The passage at column 9, lines 45-65 of *Morley* does not teach or suggest the missing features because it merely describes the reversion of the inverted image from the image intensifier tube. Figure 6 does not teach the missing features because it simply describes a circuit that can be used to find a distance range to a scene. It does not add the claimed image output to the image intensifier tube, nor does it show the image intensifier tube receiving the claimed image output. Thus, the combination of *Morley* and *Janeczko* does not teach or suggest at least the above-quoted features of claim 1.

Dependent claims 2-16 each depend either directly or indirectly from independent claim 1 and, thus, inherit all of the limitations of independent claim 1. Thus, the cited combination does not teach or suggest all features of claims 2-16. It is respectfully submitted that dependent claims 2-16 are allowable at least because of their dependence from claim 1

for the reasons discussed above. Accordingly, Applicant respectfully requests removal of the 35 U.S.C. § 103 rejection of claims 1-16.

**B. Claims 17-24**

Claim 17 recites, in part, “transmitting the video representation to a display,” and “generating a visual representation of the image at the display.” *Janeczko* does not teach or suggest these features, nor does the rejection rely on *Janeczko* to teach or suggest the features. Furthermore, *Morley* does not teach or suggest the above-recited features of claim 17 because it does not include the claimed display, nor does it perform the recited actions toward a video representation.

It appears the rejection equates the image intensifier tube to the claimed display. However, the *Morley* system does not teach or suggest a component that transmits “the video representation of the image” to the image intensifier tube because the image intensifier tube receives the image itself, rather than a video representation of the image. See Figure 2b that shows light beams as the input to image intensifier tube 50. Accordingly, the image intensifier tube of *Morley* is not the same as the claimed display. Thus, *Morley* does not teach or suggest the claimed display, and consequently, also does not teach the required transmitting and generating. Thus, the combination of *Morley* and *Janeczko* does not teach or suggest each and every feature of claim 17.

Dependent claims 18-24 each depend either directly or indirectly from independent claim 17 and, thus, inherit all of the limitations of independent claim 17. Therefore, the cited combination does not teach all claim limitations of claims 18-24. It is respectfully submitted that dependent claims 18-24 are allowable at least because of their dependence from claim 17 for the reasons discussed above. Accordingly, Applicant respectfully requests removal of the 35 U.S.C. § 103 rejection of claims 17-24.

**C. Claims 25-32**

Claim 25 recites, in part, “transmitting the IR image representation to a display,” and “generating a visual representation of the IR image at the display.” *Janeczko* does not teach or suggest these features, nor does the rejection rely on *Janeczko* to teach or suggest the

features. Furthermore, *Morley* does not teach or suggest the recited features of claim 25 because it does not include the recited display, nor does it perform the recited actions toward an IR image representation. It appears that the rejection equates the image intensifier tube of *Morley* with the claimed display; however, such assertion is incorrect. There is no component that transmits “the IR image representation” to the image intensifier tube because the intensifier’s input is the image itself, not a representation. See figure 2b that shows light beams as the input to intensifier 50. Thus, *Morley* does not teach or suggest the claimed display, and consequently, also does not teach the required transmitting and generating. Accordingly, the combination of *Morley* and *Janeczko* does not teach or suggest the above-recited features of claim 25.

Dependent claims 26-32 each depend either directly or indirectly from independent claim 25 and, thus, inherit all of the limitations of independent claim 25. Thus, the combination of *Morley* and *Janeczko* does not teach or suggest all claim limitations of claims 26-32. It is respectfully submitted that dependent claims 26-32 are allowable at least because of their dependence from claim 25 for the reasons discussed above. Accordingly, Applicant respectfully requests removal of the 35 U.S.C. § 103 rejection of claims 25-32.

#### **D. Claims 33-40**

Claim 33 recites, in part, “a detector for viewing the scene in a second spectral range, the detector having an image output representative of the viewed scene,” and “a display for receiving and displaying the image output.” *Janeczko* does not teach or suggest these features, nor does the rejection rely on *Janeczko* to teach or suggest the features. Furthermore, *Morley* does not teach or suggest the above-recited features of claim 33 because the image intensifier tube of *Morley* is not the claimed detector, nor is it the claimed display. It should be noted that the cited image intensifier tube is not the same as the claimed display because the *Morley* image intensifier tube receives the image itself as input, rather than receiving image output. Therefore, *Morley* does not teach or suggest the claimed display. Further, the image intensifier tube does not have the claimed image output because it does not produce any output that can be received by another component to display the image output. Therefore, the image intensifier tube is not the claimed detector. Thus, the combination of *Morley* and *Janeczko* does not teach or suggest the above-recited features of claim 33.

Dependent claims 34-40 each depend either directly or indirectly from independent claim 33 and, thus, inherit all of the limitations of independent claim 33. Thus, the combination of *Morley* and *Janeczko* does not teach or suggest all claim limitations of claims 34-40. It is respectfully submitted that dependent claims 34-40 are allowable at least because of their dependence from claim 33 for the reasons discussed above. Accordingly, Applicant respectfully requests removal of the 35 U.S.C. § 103 rejection of claims 34-40.

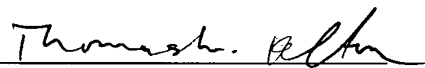
#### IV. Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if any additional fee is due, please charge our Deposit Account No. 06-2380, under Order No. 46030/P040US/10407171 from which the undersigned is authorized to draw.

Dated: October 7, 2005

Respectfully submitted,

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